UNITED NATIONS

A

General Assembly

Distr.
GENERAL

A/49/415
21 September 1994

ORIGINAL: ENGLISH

Forty-ninth session
Item 103 (b) of the
provisional agenda*

HUMAN RIGHTS QUESTIONS: HUMAN RIGHTS QUESTIONS, INCLUDING ALTERNATIVE APPROACHES FOR IMPROVING THE EFFECTIVE ENJOYMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS

Effective promotion of the Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities

Report of the Secretary-General

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I. INTRODUCTION

1. The General Assembly, at its forty-eighth session, adopted resolution 48/138 of 20 December 1993 entitled "Declaration on the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities", by which it urged States and the international community to promote and protect the rights of persons belonging to national or ethnic, religious and linguistic minorities as set out in the Declaration, including through the facilitation of their full participation in all aspects of the political, economic, social, religious and cultural life of society and in the economic progress and development of their country; and appealed to States to take all the necessary legislative and other measures to promote and give effect, as appropriate, to the principles of the Declaration.

2. The Assembly also requested the Secretary-General to report to it at its forty-eighth session on the implementation of this resolution under the item entitled "Human rights questions".

3. Pursuant to that resolution, the Secretary-General, by a communication dated 13 June 1994, invited States, interested intergovernmental and non-governmental organizations, special representatives, special rapporteurs and relevant working groups of the Commission on Human Rights and the Subcommission on Prevention of Discrimination and Protection of Minorities to submit their contributions to the Centre for Human Rights by 1 August 1994.

4. As of 7 September 1994, replies had been received from the Governments of China, Croatia, Estonia, Norway, Pakistan, Peru, Turkey and Yugoslavia.

5. The United Nations Educational, Scientific and Cultural Organization (UNESCO) had also sent a reply.

6. The Council of Europe had sent a briefing document on the work accomplished and presently being carried out by the Council in this field.

7. The European Commission of Human Rights had sent an information paper containing the Commission's case law on minorities.

8. In addition, replies had been received from the following non-governmental organizations: Human Rights Watch/Africa and the International Federation of Human Rights.

9. The present report is submitted to the General Assembly in pursuance of resolution 48/138.

II. PROMOTION AND PROTECTION BY STATES OF THE RIGHTS OF PERSONS BELONGING TO NATIONAL OR ETHNIC, RELIGIOUS AND LINGUISTIC MINORITIES

10. In its reply, the Chinese Government stated that it respected and appreciated the basic principles advanced in the Declaration concerning the protection of minority rights. It considered that as their historical backgrounds, cultural traditions, ethnic composition and current levels of economic development were all different, countries should, in promoting and applying the basic principles of the Declaration, proceed in the light of their own factual circumstances, suiting measures to local conditions and protecting all the rights of minorities through effective legislative, administrative, economic, educational and other measures. In its opinion, it is senseless to ask different countries to follow the same models, take the same approaches and make similar moves. Only by drawing upon the different situations in various countries can all of the principles enunciated in the Declaration be put into effect.

11. The Government of Croatia pointed out that the Parliament of the Republic of Croatia had adopted, in May 1992, the Constitutional Law on Human Rights and Freedoms and the Rights of National and Ethnic Communities or Minorities in the Republic of Croatia, by which the Republic guaranteed all of its citizens the respect for and protection of national and other fundamental rights and freedoms of man and citizen, rule of law and all the other highest values of its constitutional and international legal order in accordance with principles of the United Nations Charter and other international instruments.

12. The Government of Estonia stated that the population of the country was similar in composition to the population of the majority of European States, being monoracial though multi-ethnic. Parallels can also be drawn in the way multi-ethnicity has emerged, through a massive influx of migrant workers seeking better wages and living conditions in the post-Second World War period. Although this process in Estonia and in Western European countries may seem similar, the two cannot be justly compared as they transpired under vastly different circumstances. Where the Government of a Western European State, with the consent of its citizens, might have encouraged the influx of an alien work force, in Soviet-occupied Estonia this took place within the framework of a consistent russification policy by Moscow against the will of the indigenous Estonian population.

13. According to information submitted by the Government of Peru, its legislation has recognized that the advancement and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to political and social stability, as well as to peace, and enrich the cultural heritage of States; accordingly, it has given preferential treatment to rural and native communities, which possess legal status, qualify as legal persons and enjoy autonomy in their organization, in communal labour and in the use and free disposal of their land, as well as for economic and administrative purposes, within the framework laid down by law. In particular, article 85 of its Constitution provides that the State respects the cultural identity of the rural and native communities.

14. Apart from national minorities, the Constitution and positive laws of Yugoslavia make no explicit mention of the categories of religious or linguistic minorities. The federal Constitution speaks only of national minorities and their ethnic, cultural, linguistic and other specificities, while the phraseology of Republican Constitutions is dissimilar: the Constitution of the Republic of Serbia speaks of nationalities, while the Constitution of the Republic of Montenegro speaks of national and ethnic groups. Bringing the Republican Constitutions in line with the federal Constitution and the homogenization of their phraseologies still remain to be done.

A. The protection of the existence of persons belonging to minorities

15. States recognized the need to protect the existence of persons belonging to minorities and adopted legislative and other measures to achieve those ends. Some of them also produced figures indicating the national composition of the population.

16. China has 56 separate ethnic groups in its total population of 1.16 billion, of which the Han Chinese is the largest, representing 91.96 per cent; the remaining 55 together account for 8.04 per cent of the population, and of these the Mongols, Hui, Tibetans, Uighurs and 14 other ethnic groups each number over one million. Chinese is spoken throughout the country, but at the same time the local nationality's language and script are used in each area with a high ethnic population.

17. The Republic of Croatia guarantees the members of ethnic and national communities or minorities the following:

(a) Protection from any activity that could threaten their survival;

(b) The right to identity, culture, religion, public and private use of language and script, and education;

(c) The right to decide to which ethnic and national community or minority a person wishes to belong.

18. The Government of Estonia pointed out that before occupation Estonia was ethnically relatively homogeneous. The share of Estonians in the national population (ca. 1.14 million) was 88.2 per cent, while Russians at 8.2 per cent formed the largest national minority, followed by Germans, Swedes, Jews, Latvians and others. The number of Estonians fell by 17.5 per cent between the years 1941-1949 owing to deaths, deportations to Russia and refugees fleeing to the West. Starting in the 1950s, the percentage of Estonians declined steadily owing primarily to a brisk flow of immigrants of Eastern Slavic origin, such that by 1991 it had fallen to 61.5 per cent. Since the restoration of independence, this percentage has increased slightly and is currently estimated at 67 per cent by the Department of Citizenship and Immigration. This increase predominantly reflects the departure of former Soviet military personnel and their family members.

19. During the Soviet occupation, two traditional ethnic minorities, Germans and Swedes, virtually disappeared from Estonia. Even though the non-Estonian population grew by 30 per cent, the differences between these peoples were obscured. Among the newcomers, non-Russians were also subject to Soviet policies of forced ethnic assimilation. As they lacked ties to Estonian society and to their own national culture, a peculiarity resulted by which non-Russian ethnic minorities became russified within Estonia. In newly independent Estonia, many ethnic minorities have begun to identify themselves as a distinct group and have expressed the desire to be disassociated from Russia's self-imposed role as the protector of a supposedly homogeneous "Russian speaking population".

20. In October 1993, a new Law on Cultural Autonomy for National Minorities was adopted. The law defines national minorities as Estonian citizens who:

(a) Reside in the territory of Estonia;

(b) Maintain longstanding, firm and lasting ties with Estonia;

(c) Are distinct from Estonians on the basis of their ethnic, cultural, religious or linguistic characteristics;

(d) Are motivated by a concern to preserve together the cultural traditions, religion or language which form the basis of their common identity.

21. Article 3 stipulates that every member of a national minority has the right to preserve his or her own ethnic identity, cultural traditions, native language and religious beliefs. It is prohibited to ridicule and to obstruct the practices of ethnic cultural traditions and religious practices and to engage in any activity which is aimed at the forcible assimilation of national minorities.

22. The Estonian Law on Cultural Autonomy for National Minorities, in adherence to international practice, limits the definition of national minority to citizens of Estonia. It should be noted that the Estonian Law on Citizenship is based on the principle of jus sanguinis, and that accordingly all persons who were citizens of Estonia prior to the Soviet occupation on 16 June 1940, and their descendants, were automatically recognized as Estonian citizens upon the restoration of independence. Nevertheless, the law also significantly addresses the foreigners who immigrated to Estonia during the occupation. They are allowed to participate in the activities of cultural and educational institutions and religious congregations, but may not vote nor be elected or appointed to the cultural self-government council.

23. In Norway, the term minorities is used in the broad sense, meaning national and ethnic, linguistic or cultural groups which differ in significant respects from other groups within the State. A distinction is also made between "recent immigrant groups" and "settled minorities".

24. During the 1980s, approximately 25,000 foreigners acquired Norwegian nationality. The number naturalized annually has been on the increase in recent years. Among the so-called "settled minorities", the Sami people are the only minority group considered to be indigenous people in Norway. There is no

official figure for the number of Sami living in Norway, but the population is estimated to be about 40,000. Most of them live in the northern part of Norway.

25. Norway does not have special procedures for formal recognition of minorities. If minorities are granted special rights, or special measures are implemented concerning minorities (e.g. the use of minority languages, educational and cultural measures, etc.), this is normally organized by the sector involved. The status of the Sami people is established in both the Constitution and the Sami Act. An amendment to the Norwegian Constitution of April 1988, article 110a, states:

> "It is the responsibility of the authorities of the State to create conditions enabling the Sami people to preserve and develop its language, culture and way of life."

26. The Constitution of Peru empowers any citizen to file the appropriate constitutional actions against any authority or official who threatens or undermines fundamental rights (Constitution, art. 200). Furthermore, article 129 of the Penal Code establishes the crime of genocide and punishes by not less than 20 years' imprisonment anyone who commits any of the following acts with the intention of totally or partially destroying a national, ethnic, social or religious group:

(a) A massacre of members of the group;

(b) An act causing serious physical or mental harm to members of the group;

(c) Subjecting the group to living conditions intended to lead to its total or partial destruction;

(d) Measures intended to prevent births within the group;

(e) The forced transfer of children to another group.

27. According to information received from the Government of Yugoslavia, the Federal Republic of Yugoslavia is a multi-ethnic State with national minorities and various ethnic groups accounting for almost one third of its overall population. According to the 1991 census, the population breakdown is as follows: out of 10,394,026 inhabitants of Yugoslavia, 6,504,048, or 62.3 per cent, are Serbs, 519,766, or 5 per cent, are Montenegrins, 1,714,768, or 16.6 per cent, are ethnic Albanians, 349,748, or 3.3 per cent, are Yugoslavs, 344,147, or 3.3 per cent, are Hungarians, 336,025, or 3.1 per cent, are Muslims, 143,519, or 1.3 per cent, are Romanies, 111,650, or 1.1 per cent, are Croats, 66,863, or 0.6 per cent, are Slovaks, 47,118, or 0.5 per cent, are Macedonians, 42,364, or 0.4 per cent, are Romanians, 26,922, or 0.2 per cent, are Bulgarians, 21,434, or 0.2 per cent, are Bunjevci, 18,099, or 0.2 per cent, are Ruthenians, 17,810, or 0.2 per cent, are Vlachs, 11,263, or 0.1 per cent, are Turks, while less than 0.1 per cent are either Slovenes, Germans, Ukrainians, Czechs, Russians, Sokci, Poles, Jews, Greeks or other nationalities.

28. According to the 1990 Constitution, the Republic of Serbia consists of two Autonomous Provinces: Vojvodina and Kosovo and Metohija, with forms of territorial autonomy. Their autonomy is based on the specific national, historical, cultural and other features of these regions. In the Autonomous Province of Kosovo and Metohija, ethnic Albanians, as a national minority, account for 82.2 per cent of the population, while in the Autonomous Province of Vojvodina ethnic minorities account for 40.5 per cent of the population. The citizens of the Autonomous Provinces regulate the issues relevant to economic development, finances, culture, education, etc. through their organs (Provincial Parliaments and Governments).

29. A special provision in the Constitution of Yugoslavia (art. 11) provides that the Federal Republic of Yugoslavia shall recognize and guarantee the rights of national minorities to the preservation, development and expression of their ethnic, cultural, linguistic and other specificities, as well as to the use of their national symbols, in accordance with international law.

B. The right to enjoy their own culture

30. On the basis of the provisions of the 1992 Constitutional Law of Croatia, members of national and ethnic communities or minorities are free to found cultural and other societies aimed at preserving their national and cultural identity. These societies are autonomous and Croatia and local self-governing bodies provide financial support in accordance with their financial resources. In addition, Croatia protects historic monuments and the entire cultural heritage of national and ethnic communities or minorities (arts. 11 and 12).

31. Article 2 of the 1993 Law on Cultural Autonomy of Estonia defines cultural autonomy for national minorities as the right of individuals belonging to a national minority to exercise cultural autonomy in order to exercise the cultural rights given to them by the Constitution. National minority cultural autonomy may be established by the German, Russian, Swedish and Jewish minorities, which qualified under the provisions of the 1925 law, and by any other national minority with more than 3,000 members. The rights of the national minorities are specified in article 4 of this law to include the right to form and support cultural and educational institutions, religious congregations and ethnic organizations, to practice cultural traditions and religious customs, if this does not endanger public order, health or morals and to use their native language in all dealings within the limits established by the Language Law, including the right to issue ethnic language publications.

32. In accordance with article 2, paragraph 19 of the Constitution of Peru, the State recognizes and safeguards Peru's ethnic and cultural pluralism. Article 15 of the Penal Code of Peru (Legislative Decree N635 of 8 April 1991) introduces the category of de facto error attributable to cultural conditioning, which constitutes a mitigating circumstance or exempts from criminal liability anyone who, for reasons of culture or custom, commits an act that constitutes a punishable offence under Peruvian legislation. Article 15 reads as follows:

> "Anyone who commits an offence on account of his culture or customs without being able to understand the criminal nature of his act or to take

a decision because of his cultural background shall be exempt from liability. If for the same reason such capacity is diminished, the penalty shall be reduced."

33. The Government of Yugoslavia pointed out that out of about one dozen professional theatres for adults in the territory of Vojvodina, two perform in Hungarian. There are also two theatres for children in Hungarian, while one theatre performs in Hungarian, Slovak, Ruthenian and Albanian. In Slovak, Romanian and Ruthenian cultures, amateur theatres function as professional and are subsidized from the State budget. There are as many as 420 cultural and art societies in Vojvodina, while the State subsidizes regular cultural events. Community culture centres have been opened throughout the Province with libraries, reading rooms, cinemas, amateur troupes and courses.

34. In order to preserve and promote the culture of minority communities of Pakistan, the Government of Pakistan has introduced a scheme of National Cultural Awards exclusively for the minorities. Under this scheme, awards accompanied by a cash prize of PRs. 50,000 in each field are granted each year in the fields of literature, fine arts, performing arts and folk arts.

C. The right to profess and practise their own religion

35. The Constitution of Croatia recognizes and protects the right to freedom of thought, conscience and religion (arts. 38 and 40).

36. The Government of Estonia stated that no cases of religious intolerance had been noted in Estonia. Pursuant to article 40 of the Constitution, all persons have the right to freedom of conscience, religion and thought. Membership in churches and religious organizations is free and there is no state church. Every person has the freedom to practice his or her religion, either alone or in community with others, in public or in private, unless this endangers public order, health or morals. The provisions of articles 40, 41 and 11 of the Constitution all relate to the freedom of conscience, religion and thought and are included among those rights which may not be restricted, even in a state of emergency or a state of war (art. 130). An additional safeguard of religious freedom is provided by article 138 of the Criminal Code, which deems the obstruction of a religious ceremony to be a criminal offence punishable by a fine or imprisonment.

37. Pursuant to article 4 of the Law on Churches and Congregations, every person has the right to freely choose, express and proclaim his or her religious beliefs. No one is obliged to provide information on his or her religious or church membership. Parents and legal guardians are ensured the freedom to provide their children with religious and moral education according to their beliefs. The Law on Churches and Congregations requires that all congregations include at least 12 members and be registered with the Ministry of Internal Affairs and the Religious Affairs Board. Leaders of congregations must be Estonian citizens who have resided in Estonia for at least five years. This principle has not created any problems in practice.

38. Under the Constitution and the laws of Pakistan, minorities in that State have complete freedom to practice their faith. Relevant articles of the Constitution of the Islamic Republic of Pakistan - 1973 in this regard are reproduced below:

"Article 20.

"Subject to law, public order and morality:

"(a) Every citizen shall have the right to profess, practice and propagate his religion; and

"(b) Every religious denomination and every sect thereof shall have the right to establish, maintain and manage its religious institutions.

"Article 21.

"1. No person attending any educational institution shall be required to receive religious instruction, or take part in any religious ceremony, or attend religious worship, if such instruction, ceremony or worship relates to a religion other than his own.

"2. In respect of any religious institution, there shall be no discrimination against any community in the granting of exemption of concession in relaxation to taxation.

"3. Subject to law:

"(a) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any educational institution maintained wholly by that community or denomination."

39. In accordance with paragraph 3 of article 2 of the Constitution of Peru, all persons are entitled to "freedom of conscience and religion, either individually or in association. There shall be no persecution of ideas or beliefs. No one shall be deemed to commit an offence for holding an opinion. All forms of public worship shall be free, provided they do not offend morals or disturb public order".

40. According to the Constitution and positive laws of Yugoslavia, religion is free, which implies the freedom of belief, practice and performance of religious rites. About 50 registered religious communities are active in the territory of Yugoslavia. In addition to the Serbian Orthodox Church, there is the Islamic Community serving Muslims and Albanians and the Roman Catholic Church serving Croats and Hungarians. Traditional Protestantism is represented by the Slovak Evangelist Church, which congregates the members of the Slovak national minority and by the Christian Reform Church, which is active among Hungarians. There are also the Romanian Orthodox Church, the Evangelist-Methodist Church, the Christian Adventist Church, the Christian Baptist Church, the Christian Nazarene Community, the Jewish Community with its Religion Section, etc. Services in all

these churches are performed in the language of the majority of their believers. All religious communities are free and independent in the performance of their rites and in their internal organization. They are also free to maintain international contacts and become members of international church organizations and other inter-church associations.

D. The right to use their own language

41. As mentioned above, in China, Chinese is spoken throughout the country, but at the same time the local nationalities' languages and scripts are used in each area with a high ethnic population. The Government assists minorities in arranging cultural education so that they may use their own languages and writing systems.

42. In Croatia, on the basis of the provisions of the Constitutional Law, members of the ethnic and national communities or minorities are free (a) to organize informative and publishing activities in their own language and script; (b) be educated in kindergartens and schools in their own language and script; and (c) to found private kindergartens, schools and other educational institutions. The Parliament of Croatia adopted the Law on the Official Use of Language and Script of Ethnic and National Communities or Minorities, which guaranteed the official use of language and script of members of ethnic or national, religious and linguistic minorities before courts and the bodies of State administration. The Law on Telecommunications regulates the use of language of ethnic or national communities or minorities in radio and television programmes.

43. According to articles 7 and 8 of the Constitutional Law of Croatia, in those municipalities where members of a national or ethnic community or minority represent the majority of the total population, the alphabet and language of that national or ethnic community or minority will be officially used, together with the Croatian language and with the Latin alphabet. Local self-governing units may decide to use two or more languages and alphabets officially, taking into account the number of the members and the interests of national or ethnic communities or minorities.

44. Except for religious teaching by the congregation (and to some extent schools initiated by North Americans, the British and French), recent immigrant groups have not yet started their own schools in Norway. Their needs are met as far as possible within the public school system. However, if they decide to start private schools, these may obtain public assistance, as long as they fulfil general requirements for such funding. There are a number of cultural and educational institutions for the Sami people.

45. The Norwegian Government allocates funds for the special educational needs of linguistic minorities, including recent immigrant groups. A substantial proportion of these funds is used for teaching the mother tongues of such minorities, mainly at the compulsory primary and lower secondary levels of the school system. However, such teaching is not a legal right. Approximately half of all the minority language students thus received such education through the public school system. The highest proportion of pupils receiving education in

their mother tongue is found among native Urdu speakers (approximately two thirds).

46. Since 1967, the Act concerning primary and lower secondary education has included the right to learn Sami. The Act on primary education has recently been amended to strengthen that right. Children in Sami districts are entitled to be educated in or be taught the Sami language and the municipal council may make such education compulsory. Outside Sami districts, children with a Sami background may receive education in Sami; if there are at least three Sami-speaking pupils in a school they may demand such education. The Sami Act gives Sami speakers the right to use their language in contact with local and regional authorities.

47. In accordance with article 28 of the Constitution of Pakistan, any section of citizens having a distinct language, script or culture shall have the right to preserve and promote them and, subject to law, establish institutions for the purpose.

48. The Government of Peru undertakes measures prescribed by the Constitution to eradicate illiteracy and promote bilingual and intercultural education, in accordance with the nature of each region. It safeguards Peru's cultural and linguistic diversity. It fosters national integration (art. 17). The Government is concerned with eradicating illiteracy and promoting bilingual education, together with intercultural education, while safeguarding Peru's cultural and linguistic diversity (art. 17). Clearly, access to education is subject to no form of discrimination; on the contrary, the Government seeks to provide encouragement and support for academically deserving pupils. Education in Peru is subject to the following norm pursuant to the General Education Act, No. 23384 of 18 May 1982:

> "Preferential treatment for marginal sectors, border areas, rural areas, settlements where indigenous languages predominate and other similar circumstances (art. 4, para. (d))."

49. According to the Constitution of Yugoslavia, the language and alphabet of a national minority living in an area are officially used in that area in accordance with the law. The official use of a language and an alphabet is considered to be the use of the language and alphabet in the work of State organs, organs of Autonomous Provinces, towns, cities, municipalities, institutions, enterprises and other public organizations. The languages and alphabets of national minorities are also used for the inscription of square-, street- and place-names and for other geographical designations, for public address, information and warnings and for the inscription of other public names. The languages and alphabets of national minorities are used in the communication between organs and organizations, as well as with citizens, in proceedings for the realization and protection of rights, duties and responsibilities of citizens and for the keeping of records, issuance of personal documents, etc.

50. According to the statute of the Autonomous Province of Vojvodina, the highest legal act of the Province, in addition to the Serbian language and the Cyrillic alphabet (or the Latin alphabet in the manner specified by law), the Hungarian, Slovak, Romanian and Ruthenian languages and alphabets as well as the

languages and alphabets of other nationalities in the manner specified by law are also officially used by the organs of the Autonomous Province. Consequently, simultaneous interpretation into five languages is regularly provided during Vojvodina Assembly sessions. In their work, the Provincial organs communicate with citizens in the languages of national minorities. Courts in Vojvodina conduct proceedings in the languages in the official use in that territory and where this is not possible, interpretation services are provided.

51. Education in Yugoslavia is accessible to all under the same conditions, while the eight-year elementary education is compulsory. Education in the languages of national minorities is organized at all levels, from pre-school to university, while regular education in all languages in official use in elementary, secondary and high schools is free.

52. The regulations of the Republic of Montenegro provide for the opening of schools and classes in the Albanian language or schools and classes with bilingual instruction in the areas inhabited with a substantial number of ethnic Albanians. This pertains to elementary and secondary schools. In the schools with Albanian as the language of instruction, registration and certificates are in Serbian and Albanian.

53. Under the Law on Elementary Schools and the Law on Secondary Schools of the Republic of Serbia, national minority plans and programmes are in respective mother tongues if at least 15 students have enrolled in form one; however, such plans and programmes are available also for a smaller number of students if approved by the Minister of Education. There are also provisions for organizing bilingual education or complementary maternal language courses with elements of national culture.

54. Under the provisions of the Law on Higher Schools and the Law on Universities of the Republic of Serbia, instruction is carried out in Serbian, but it can be carried out also in the language of a national minority if so provided by the decision of the founder and on the basis of the opinion of the University. The following languages are used as instruction languages in high and higher education: Hungarian at seven, Slovak at two, Romanian at two and Ruthenian at two faculties. Education is organized in the same way also in the Autonomous Province of Kosovo and Metohija, but ethnic Albanian students boycott not only the classes at the Pristina University but the entire education in State schools from pre-school on, motivated exclusively by political reasons. Before the boycott, the University of Pristina had 37,000 students, 80 per cent of whom were ethnic Albanians studying in the Albanian language, with the Republic of Serbia subsidizing 98 per cent of their education costs.

55. Under the Law on Public Information in the Republic of Serbia every one is free to establish a newspaper, the only requirement being to register it with the competent court. It is within the competence of the Autonomous Province of Vojvodina to provide conditions for public information in the languages and alphabets of national minorities. The publication of 14 newspapers in the languages of national minorities is subsidized from the budget of Vojvodina. According to the latest statistical data, the following newspapers in Yugoslavia were published in the following languages: Hungarian 17, Romanian and

Ruthenian 11, Czech and Slovak 8, Albanian 7, Turkish 2, Bulgarian 1 and 19 in more than one language. The following magazines were published in national minority languages: Hungarian 4, Romanian and Ruthenian 4, Czech and Slovak 4, Bulgarian 1, Turkish 1 and 36 magazines in more than one language.

56. Out of 285,287 radio and television hours in Yugoslavia, 6,454 were broadcast in Albanian, 105 in Bulgarian, 19,543 in Hungarian, 3,599 in Romanian, 1,803 in Ruthenian, 5,485 in Slovak, 3,149 in Turkish, 48 in Ukrainian and 4,614 hours in the languages of other minorities. Radio stations in Vojvodina broadcast in eight languages: Serbian, Hungarian, Slovak, Romanian, Ruthenian, Ukrainian, Macedonian and Romany. The radio in Hungarian broadcasts its programme round the clock; in Slovak seven hours a day on average, Romanian seven hours and in Ruthenian four hours a day. These data pertain to Radio Novi Sad, the central station for the Vojvodina area. This Province also has 25 regional and local radio stations, 4 of which prepare and broadcast programmes in 4 languages, 6 stations have programmes in 3 languages, 8 in 2 languages and 4 stations in 1 language.

E. The right to participate effectively in cultural, religious, social, economic and public life

57. The Chinese Government stated that it had always held that the harmony and unity of the nationalities in a multinational State depended not only on the progress made by each individual nationality but also on the stability and development of society as a whole. Thus as it laid down policy on political affairs, the economy and social development it took the utmost care to protect the rights and interests of its minorities. Current Chinese legislation on minorities comprises both nationwide law, including the Constitution and the Law on Regional National Autonomy, and local laws and regulations, including autonomous ordinances and special regulations issued by national autonomous areas. These various laws and regulations deal with every aspect of minority politics, economics, cultural education, spoken and written language, religious belief and so forth. China may already be said to have started developing a legal system that protects all minority rights.

58. For historical, geographical, social and other reasons, levels of socio-economic development in some minority national areas still lag behind those in the areas inhabited by Han Chinese. In order to help these areas catch up with the developed ones as quickly as possible, the Government takes the utmost care to provide the requisite financial, human and material support; it gives them preference in its formulation of popular economic development plans, and at the same time requests and encourages the developed areas to assist the minority national areas while advocating mutual reinforcement among the regions. Thanks to assistance from the State and the efforts of their own inhabitants, substantial advances have been made in the economic construction of the minority national areas.

59. In accordance with article 89 of the Constitution of Peru, the rural and native communities possess legal status and qualify as legal persons. They shall be autonomous for purposes of organization and communal labour and as regards the use and free disposal of their land, and for economic and

administrative purposes, within the framework laid down by law. Ownership of their land is imprescriptible.

60. The Environment Code, Legislative Decree No. 613 of 7 September 1990, stipulates in its article 54 that Peru recognizes the title of ancestral rural and native communities to the land they possess within the nature reserves and their zones of influence, and fosters their participation. Mention should also be made of the Act to Promote Investment in the Agricultural Sector, Legislative Decree No. 653 of 1 August 1991; in order to protect and preserve the rural and native communities, this Act stipulates that the owners of agrarian holdings of over five (5) hectares, with the exception of rural and native communities, may mortgage their land to any natural or legal person as security for the performance of their obligations. Priority among creditors shall be determined, without exception, by the date on which the mortgage was entered in the public registers (Act to Promote Investment in the Agricultural Sector, art. 9); in addition, the rural and native communities, as well as peasant cooperative enterprises that own forest land, may enter into rental contracts in respect of them for a renewable period of up to thirty (30) years so that they may be used to establish and/or operate forestry plantations.

61. There are a number of other laws in Peru aimed at promoting and protecting economic activity of minorities. Among them, Act No. 22175 on native communities and for promotion of farming in the Selva and Selva fringe regions has made possible considerable progress in the integration of the native community into national economic life on equal terms, thereby protecting ethnic minorities in the Selva. Act No. 23407 prohibits industries from causing damage to the communities. Act No. 25381 stipulates that native communities may not be considered taxable persons for the purposes of income tax payment. Legislative Decree No. 635 protects native communities from being illegally deprived of their property. Legislative Decree No. 776, the Municipal Tax Act, exempts native communities from the land tax. Supreme Decree No. 46-93-EM protects native communities and the environment from petroleum-related activities.

62. The Government of Yugoslavia pointed out that every citizen of the State, no matter whether he or she was a member of a majority or minority group or not, had the right to participate in government at all levels under the same conditions. In the present multi-party political system in Yugoslavia, minority populations tend to rally around either ethnic political organizations or to join other political organizations (socialists, democrats, radicals, etc.).

F. The right to participate effectively in decisions on the national level

63. The Chinese Government stated that in its handling of ethnic affairs, it extensively solicits the views of each ethnic group concerned and conducts thorough consultations. At the same time, by means of legislation and ad hoc measures, it guarantees minority involvement in all aspects of public life and in national and local affairs.

64. The Parliament of the Republic of Croatia adopted individual laws under which the rights of the members of national or ethnic, religious and linguistics minorities are guaranteed and protected, as follows:

(a) The Law on the Election of Representatives in the Parliament of the Republic of Croatia, which guarantees members of national or ethnic, religious and linguistics minorities to be represented in the Parliament of the Republic of Croatia;

(b) The law on the Election of Representative Bodies of Local Self-Government and Administration Units, which provides that members of national or ethnic, religious and linguistic minorities shall be represented in the representative bodies of local self-government and administration units (in countries, cities and municipalities);

(c) The Law on Local Self-Government and Administration, which provides that the structure of the employees in the administration bodies of local self-government units corresponds to their representation in the representative bodies;

(d) The Law on the System of the State Administration, which also guarantees adequate representation of members of national or ethnic, religious and language minorities.

65. The Government of Estonia pointed out that in order to improve the level of communication between the Estonian Government and the non-Estonian population, the President had invited representatives of all national minorities and permanently residing aliens to take part in Round Table talks, providing a forum for dialogue with Estonian politicians. The goal of the Round Table, which also included representatives from the Union of Estonian Nationalities, political parties, and the Representative Assembly elected by the non-Estonian community, was to discuss issues that affect the non-citizen and national minority communities. Its tasks included the solving of issues concerning aliens permanently residing in Estonia, providing assistance to applicants for Estonian citizenship and addressing issues related to the study and use of the Estonian language (statute of the Round Table, art. 7). The President's representative may present the Round Table's proposals and recommendations to the Parliament and Government and may make proposals concerning draft laws under discussion in parliamentary committees.

66. In Norway, foreigners with three years of continuous residence in the State have full voting rights in local and regional elections. Furthermore, the Ministry of Local Government has appointed a liaison committee between immigrants and Norwegian authorities, where all matters of principle related to Norwegian immigration/immigrant policy are discussed. In addition, some important policy documents are sent out for review to immigrant organizations. The provisions of section 1-1 of the 1987 Sami Act might be mentioned. They established the Sami Parliament, a body with some executive powers, and with a consultative status vis-à-vis the national authorities where questions concerning the Sami population are involved. The 39 members of the Assembly are elected by and among registered Samis through a process identical to the general elections.

67. In Pakistan, according to article 36 of the Constitution, the State safeguards the legitimate rights and interests of minorities, including their due representation in the Federal and Provincial Services. Article 51 provides that there shall be in the National Assembly 10 additional seats reserved for Christian, Hindu, Sikh, Buddhist and Farsi communities and other non-Muslims. According to its article 106, a certain number of seats are specified for non-Muslims in provincial assemblies.

G. The right to establish and maintain their own associations

68. The Secretary-General has received only one reply, from the Government of Croatia, stating that in accordance with article 4 of its Constitutional Law,

> "Ethnic and national communities or minorities have the right to self-organization and association in order to realize their national or other rights in compliance with the Constitution of the Republic of Croatia and this Law."

69. The right of persons belonging to minorities to establish cultural and other societies was analysed in section B above. However, it should be emphasized that the promotion of this right could contribute to the promotion and protection of other rights of persons belonging to minorities. For instance, effective participation in cultural, religious, social, economic and public life requires that minorities be entitled to form their own associations.

H. The right to establish and maintain free and peaceful contacts with other members of their group, as well as contacts across frontiers

70. The right of persons belonging to minorities to have as free and wide contacts as possible with related populations on the other side of the border is considered as essential for the preservation and development of their language, culture and spiritual life. With reference to this right, only a few replies made mention thereof.

71. According to article 4 of its Constitutional Law, Croatia assists the development of the relations between national and ethnic communities or minorities with the nationality of their parent country in order to promote their national, cultural and language development.

72. The 1993 Law on Cultural Autonomy for National Minorities of Estonia provides for the right of those minorities to conclude agreements of cooperation between ethnic, cultural and educational institutions and religious congregations and to freely circulate and exchange information in their native language.

73. In Peru, in accordance with the General Education Act, the Government's cultural policy strives to develop full appreciation of Peru's cultural heritage, to preserve and enhance it and to develop cooperation and interchange

with universal culture, in particular that of Latin America, while preserving national autonomy and identity and fostering knowledge of the languages spoken in Peru (art. 4, paras. (a) and (c)).

I. Equality before the law

74. States which ratified the human rights Conventions expressly undertook obligations as States parties to respect and ensure the human rights contained in those treaties without discrimination or "without distinction of any kind". All States which sent replies recognized their responsibility for ensuring equality and non-discrimination within their territory.

75. The Chinese Government recognized that some of the measures proposed in the Declaration concerning the guaranteeing of equality for minorities with citizens of their home country in all civil rights and fundamental freedoms would be of benefit in promoting harmonious relations between all nationalities throughout the country. With regard to domestic legislation, article 4 of the Chinese Constitution states that all nationalities in the People's Republic of China are equal and that the State protects the lawful rights and interests of the minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among the nationalities. Discrimination against and oppression of any nationality are prohibited; any acts that undermine the unity of the nationalities or instigate their secession are prohibited.

76. The protection of rights of persons belonging to national or ethnic, religious and linguistic minorities is guaranteed by the Constitution of the Republic of Croatia. Article 15 of the Constitution provides that members of all nations and minorities have equal rights in the Republic of Croatia and are guaranteed freedom to express their nationality, freedom to use their language and script, and cultural autonomy. In addition, article 6 of the Constitutional Law guarantees the members of all national or ethnic communities or minorities full observance of the principle of non-discrimination and the protection of equality of participation in public affairs, e.g. the right to political and economic freedoms in the social sphere, access to media, and in education and cultural matters in general.

77. In Estonia, the rights, liberties and duties of everyone and all persons, as listed in the Constitution, are the same for Estonian citizens as for citizens of foreign States and stateless persons (art. 9). Discrimination on the basis of nationality, race, colour, gender, language, origin, religion, political or other beliefs, financial or social status or any other reason is prohibited by the Constitution (art. 12). The incitement to national, racial, religious or political hatred, violence or discrimination is prohibited and punishable by law. The incitement to hatred, violence or discrimination between social strata is equally prohibited and punishable by law.

78. In accordance with article 25 of the Constitution of Pakistan, "all citizens are equal before law and are entitled to equal protection of law". Articles 26 and 27 prohibit any discrimination in respect of access to places of public entertainment and appointment to public service. Article 21, paragraph 3 (b) stipulates that "no citizen shall be denied admission to any

educational institution receiving and from public revenues on the ground only of race, religion, caste or place of birth". In addition, paragraph 4 of this article states that "nothing in this Article shall prevent any public authority from making provision for the advancement of any socially or educationally backward class of citizens".

79. Article 2 of the Constitution of Peru states that all persons are entitled to equality before the law. No one shall be discriminated against on grounds of origin, race, sex, language, religion, opinion or economic status or on any other ground. The Government of Peru pointed out that the country based its legislation relating to minorities on equality before the law and permitted no discrimination whatsoever on grounds of origin, race, sex, language, religion, opinion or economic status or on any other ground.

80. The Government of Peru is aware of the harsh and grave problems faced by the indigenous communities, and it will require considerable effort and imagination to overcome the poverty, political and social violence, lack of communication and intolerance, leading to exclusion, which foster marginalization and racism. This portrayal of Peruvian society corresponds more closely to the Amazon region, to its population and to its cultural wealth. Accordingly, Peru recognizes the need to enhance its presence by channelling greater funds and providing more efficient and appropriate services to alleviate marginalization and to progress towards national integration.

81. The Government of Turkey stated that the equality of all Turkish citizens before law was guaranteed under Turkish legislation and they faced no discrimination whatsoever as far as their statutory rights were concerned.

82. In Yugoslavia, the federal State and its constituent Republics (Serbia and Montenegro) are defined in the Constitution as States based on the equality of all their citizens. There is no discrimination on the basis of ethnic origin and the State is not defined as a State of the largest nation. Accordingly, all citizens, irrespective of whether they belong to the Serbian or Montenegrin people, or to a national minority or ethnic group, are guaranteed the same human rights and freedoms by the Constitution.

J. Mechanism, procedure and other measures to promote and protect the rights of persons belonging to minorities

83. There is a general recognition of the necessity to have a mechanism and procedure available to deal with minority issues and to take remedial action before persons belonging to a minority feel that their legitimate rights and interests are violated or neglected. Therefore, States have established various mechanisms and procedures to this end. For instance:

> "In order to promote and protect the rights of national or ethnic, religious and linguistic minorities, the Republic of Croatia has established the Government Office for Inter-Ethnic Relations as well as the Department for Minorities within the Ministry of Foreign Affairs."

84. The Government of Pakistan has made the following institutional arrangements for promotion and protection of the rights of the minorities communities:

(a) Minorities Affairs Division

A full-fledged Division in the Federal Government, namely, the Minorities Affairs Division, has been established for safeguarding the rights of minorities, as guaranteed to them by the Constitution;

(b) National Commission for Minorities

In order to promote the welfare and uplift of minorities living in Pakistan and to protect and safeguard their religious, social and cultural rights, the Government has constituted a high-powered National Commission for Minorities under the Chairmanship of Minister for Minorities Affairs. The Commission is represented by all sects of minorities living in Pakistan;

(c) Federal Advisory Council for Minorities Affairs

The Council was set up under the auspices of the Minority Affairs Division and advises the Government on matters concerning the welfare of the minorities. The Government formulates policies with regard to the rights etc. of the minorities in the light of the recommendations of the Council. Non-official members of the Advisory Council consist of all minority members of National and Provincial Assemblies and other minority notables;

(d) District Minority Committees

These Committees have been set up in all the districts of the country. Their purpose is to look into the day-to-day problems of the minorities and to resolve them at their doorstep. The Committees are headed by the Deputy Commissioners/Additional Deputy Commissioners and are composed of members of minority communities residing in the District.

85. There are various bodies in Peru responsible for dealing with complaints concerning human rights violations, including complaints relating to violations of the rights of persons belonging to minorities, and for guaranteeing the right of everyone to fair and adequate compensation for any damage he or she might suffer as a result of any threat to their fundamental rights. Accordingly, the institution of Defensor del Pueblo (Ombudsman) is enshrined in the Constitution; it is the Ombudsman's responsibility to safeguard the constitutional and fundamental rights of individuals and of the community and to ensure that the State administration fulfils its obligations and provides public services to citizens.

86. The Government of Yugoslavia stated that the institutional mechanism for the protection of the rights of national minorities was strengthened after the adoption of the Constitution of Yugoslavia by the establishment of the Federal Ministry of Human and Minority Rights in July 1992. Montenegro has its own Republican Council for the Protection of Members of National and Ethnic Groups,

while Serbia has the Commission of the National Assembly for Inter-Ethnic Relations and the Government Commission on Human Rights.

87. Some States undertake territorial subdivision to make it possible for compactly settled minorities to have greater influence over political, social and economic decisions affecting their members. Given the scale and extent of the minority ethnic clusters in China and all the political, economic, cultural and other factors involved, the country applies regional autonomy in areas where ethnic minorities are concentrated. There are now 159 such national autonomous regions, including 5 administratively independent autonomous regions of provincial rank, 30 autonomous prefectures and 124 autonomous counties, together accounting for 64 per cent of the total area of the country. Under the Constitution and the Law on Regional National Autonomy, the organs of self-government of national autonomous areas are local administrative organs of the State. Besides having the powers of other local organs of State, they are autonomous in matters relating to politics, economics, culture and education, etc. In the view of the Government, the system of national regional autonomy has brought important benefits as regards guarantees of all democratic rights for China's minorities and the promotion of development in the minority national regions and unity among the various ethnic groups.

88. The Government of Yugoslavia pointed out that municipalities as territorial units were in charge of local government. In view of the fact that, by and large, ethnic minorities live as compact entities in individual municipalities, they form local governments at municipal levels in proportion to their number. Thus, for example, the Democratic Union of Vojvodina Hungarians has formed a local government in six municipalities in Vojvodina: Subotica, Kanjiža, Senta, Ada, Bačka Topola and Mali Idjoš, and has five deputies in the Republican Assembly.

K. Commitments under international treaties and agreements

89. With respect to commitments under international treaties and agreements, States usually give the list of international conventions in the field of human rights to which they are parties. The Government of Turkey mentioned the Treaty of Lausanne of 1923, 1/ by which Turkey agreed to the identification of a number of population groups as "minorities".

90. The Declaration on the Rights of Persons Belonging to National and Ethnic, Religious or Linguistic Minorities is considered to be a very important instrument aimed at promoting and protecting the whole cluster of rights of persons belonging to minorities. In the view of the Government of China, in the current situation, the Declaration's emphasis on peaceful ways and means of protecting the rights of persons belonging to minorities is of important practical significance. Sharp conflicts persist between peoples and ethnic groups in several parts of the world; on occasion, ethnic antagonism and incessant armed clashes have led to instances of active xenophobia, disturbances and bloodshed, in which overall the human rights and fundamental freedoms of a billion people have been gravely violated. This cannot but induce the international community to pay close attention and to worry. The Government expressed its hope that the appropriate United Nations bodies will be able to

give this matter their full attention, urging the parties to the various issues to settle their differences by peaceful means, do away with hostility and bring about unity and concord between nations.

III. ACTIVITIES OF THE RELEVANT ORGANS AND BODIES OF THE UNITED NATIONS GIVING DUE REGARD TO THE DECLARATION WITHIN THEIR MANDATES

A. Commission on Human Rights

91. The General Assembly, in paragraph 3 of its resolution 48/138, called upon the Commission on Human Rights to examine ways and means to promote and protect effectively the rights of persons belonging to minorities, as set out in the Declaration.

92. The Commission on Human Rights, at its fiftieth session, in 1994, considered the report prepared by the Secretary-General on the subject (E/CN.4/1994/72 and Corr.1). This report contained the relevant replies from the Governments of Austria, Benin, Chad, China, Finland, Germany, Greece, Hungary, Jordan, Norway, Romania, Ukraine and Yugoslavia, as well as the reply submitted by a non-governmental organization, the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and other Minorities.

93. The Commission also took note with appreciation of the final report of the Special Rapporteur of the Subcommission on Prevention of Discrimination and Protection of Minorities, Mr. Asbjørn Eide, on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (E/CN.4/Sub.2/1993/34 and Add.1-4).

94. In its resolution 1994/22 of 1 March 1994, the Commission on Human Rights, taking note of General Assembly resolution 48/138, emphasized the need to promote and protect effectively the rights of persons belonging to minorities as set out in the Declaration.

95. The Commission urged States, in paragraph 2 of its resolution, to take, as appropriate, all the necessary constitutional, legislative, administrative and other measures to promote and give effect to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. In addition, in paragraph 12, the Commission requested the Secretary-General to seek views and information from Governments, the specialized agencies, relevant United Nations organs and bodies, regional intergovernmental organizations and bodies and non-governmental organizations and experts in all regions on issues relating to the promotion and implementation of the Declaration.

96. The Commission also urged the Subcommission on Prevention of Discrimination and Protection of Minorities to continue to give due regard, within its mandate, to the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities, and endorsed the decision to entrust Mr. Asbjørn Eide, without financial implications, with preparing a working paper containing suggestions on the feasibility and usefulness of the

preparation of a more comprehensive programme for the prevention of discrimination and protection of minorities.

97. It may be pointed out that the Commission, at its special session on Rwanda held in Geneva on 24 and 25 May 1994, analysed new phenomena which had the effect of killing members of the ethnic groups and was described as genocide. The deliberations of the special session also convincingly showed that all rights embodied in the Declaration had been violated (E/CN.4/S-3/4).

98. The Commission had before it both the report of the United Nations High Commissioner for Human Rights, Mr. José Ayala Lasso, on his visit to Rwanda (E/CN.4/S-3/3) and the section of the report of Mr. Bacré Ndiaye, the Commission's Special Rapporteur on extrajudicial, summary or arbitrary executions, on his April 1993 mission to Rwanda (E/CN.4/1994/7/Add.1). The High Commissioner's concluding recommendations, as contained in his report, laid the foundation for the Commission resolution.

99. In resolution S-3/1 of 25 May 1994 entitled "The situation of human rights in Rwanda", the Commission noted with deep concern that a situation of ethnic and political armed conflict, systematic slaughter and massacres continued to exist in Rwanda, resulting in grave violations and abuses of human rights, including massive loss of lives, which may exceed 500,000, and destruction of property. It also recalled that the killing of members of an ethnic group, with the intention of destroying such a group in whole or in part, constituted the crime of genocide.

100. The Commission expressed its alarm at all repressive policies and policies directed against members of particular ethnic groups, and also called upon all parties concerned to ensure the protection of the rights of all persons regardless of their national or ethnic, religious or linguistic background. In addition, it called upon the parties to the conflict to ensure safe passage for those fleeing from the conflict areas including, where necessary, to asylum countries and to ensure the right to return under safe conditions.

101. The key points of the resolution included the appointment of human rights field officers and the requirement that "a strong human rights component" be included in any United Nations conflict resolution/peace-building in Rwanda, the High Commissioner being responsible for ensuring this. The resolution also appointed a Special Rapporteur to visit Rwanda as soon as possible and report back within four weeks. Mr. René Degni-Ségui (Côte d'Ivoire) was appointed at the session. His mandate was to investigate the situation at first hand, to receive information, including on root causes and responsibilities for the recent atrocities, to compile information on possible violations of human rights, breaches of international humanitarian law, crimes against humanity and acts of genocide and to call on existing mechanisms for assistance. His reports are also to be submitted to the Security Council.

102. The Special Rapporteur on Rwanda submitted his report (E/CN.4/1995/7) on 28 June 1994. It documented the background to the conflict, pointing out that:

> "The reason for what is taking place in Rwanda is not ethnic as such, but rather political, the aim being ... the retention of power, by the

representatives of one ethnic group, ... who are using every means, principally the elimination of the opposing ethnic group, but also the elimination of political opponents within their own group."

The refusal to allow a democratic political opposition, together with the incitement to ethnic hatred and violence (principally through the government-controlled radio station, aggravated by the training and arming of the militias and the removal of moderates from positions of authority) and impunity are cited as the three main causes of the massacres.

103. Given these developments, the Commission requested the existing mechanisms of the Commission on Human Rights, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the question of torture, the Representative of the Secretary-General on internally displaced persons, the Working Group on Enforced or Involuntary Disappearances and the Working Group on Arbitrary Detention, as well as human rights treaty bodies, where appropriate, to give urgent attention to the situation in Rwanda and to provide, on a continuing basis, their full cooperation, assistance and findings to the Special Rapporteur and to accompany him on visits to Rwanda whenever necessary.

B. Subcommission on Prevention of Discrimination and Protection of Minorities

104. In its resolution 1993/43 of 26 August 1993, the Subcommission entrusted one of its members, Mr. Asbjørn Eide, with the task of preparing a working paper containing suggestions for a comprehensive programme for the prevention of discrimination and protection of minorities. As mentioned above, this decision had been endorsed by the Commission on Human Rights in its resolution 1994/22.

105. In compliance with those requests, Mr. Eide prepared a working paper (E/CN.4/Sub.2/1994/36), which had direct relevance for the implementation of the Declaration. This is especially true with respect to all of the recommendations contained in chapter V, entitled "Areas of action by the Sub-Commission". In particular, attention may be drawn to the following conclusions and recommendations:

"...

"33. It having been recognized that the Subcommission is the only expert body which brings together the dual mandate of prevention of discrimination and protection of minorities, the elements in the programme of work should be spelled out. The normative basis has gradually been constructed and exists now in its main outline, consisting in particular of the following elements: the Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Protection of the Rights of Migrant Workers and Members of Their Families, the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities; the Declaration on the Elimination of All Forms of Intolerance based on Religion or Belief; and the forthcoming declaration on the rights of indigenous peoples. There are several other instruments,

including those adopted by other agencies, such as the UNESCO Convention against Discrimination in Education, and ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries.

"34. Priority attention should be given to the implementation of this normative system in national law, both constitutional and statutory law. The proper combination of provisions concerning equality and non-discrimination and provisions allowing for conditions to maintain group identity, should be encouraged.

"...

"40. Whichever monitoring system is developed regarding minorities, the important task for the Subcommission is to be able to deal with the totality of the questions concerned and to study the interrelationship between the different sets of issues - non-discrimination, racism, ethnic conflict, religious intolerance, xenophobia. On that basis the Subcommission may be able to give guidance to the many other bodies, rapporteurs and agencies which deal with separate aspects of the same totality.

"41. The Subcommission and the Committee on the Elimination of Racial Discrimination should encourage States to establish recourse procedures for those who are victims of racial or ethnic discrimination.

"...

"49. Once the Subcommission recognizes its unique position as the only body with the mandate to integrate the concern with discrimination and with minorities, it should elaborate a coherent programme on these issues, which are of burning actuality. It is hoped that the observations made in the present paper, together with the recommendations contained in the study on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (E/CN.4/Sub.2/1993/34 and Add.1-4) may help the Subcommission in this endeavour."

106. The Subcommission, at its forty-sixth session, adopted resolution 1994/4 of 19 August 1994 entitled "Prevention of discrimination and protection of minorities", in which it took note of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, and expressed its conviction that its implementation, in conjunction with the International Convention on the Elimination of All Forms of Racial Discrimination 2/ and all other relevant international instruments, provided the best guidance for ensuring equality and non-discrimination between all groups in society and finding peaceful and constructive solutions to minority situations, in accordance with international law.

107. The Subcommission recommended that the Commission on Human Rights endorse the following recommendations:

"(a) That an inter-sessional working group of the Subcommission be established, consisting of five of its members, to examine, inter alia,

peaceful and constructive solutions to situations involving minorities, and in particular to:

(i) Review the practical application of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities;

(ii) Provide recommendations to the Subcommission and other competent entities, including the High Commissioner for Human Rights, on further measures for the protection of minorities in cases where the working group finds a risk of the eruption or escalation of violence between different groups in society;

(iii) Promote dialogue between minority groups in society and between those groups and Governments;

"(b) To request the assistance of Mr. Asbjørn Eide to prepare an analytical report on minority issues, as envisaged in Commission resolution 1994/22 of 1 March 1994, to submit a preliminary report to the Commission at its fifty-second session and a final report at its fifty-third session, bearing in mind in particular the new developments affecting minorities;

"(c) That the Centre for Human Rights be strengthened to enable it to provide adequate services to the working group and for relevant studies, and for the purpose of undertaking relevant evaluation and action in this field;

"(d) That the study by Mr. Eide on possible ways and means of facilitating the peaceful and constructive solution of problems involving minorities (E/CN.4/Sub.2/1993/34 and Add.1-4) be published in all the official languages of the United Nations and given the widest possible circulation".

C. United Nations Centre for Human Rights

108. The Centre for Human Rights has been continuing to assist the General Assembly, the Economic and Social Council, the Commission and the Sub-Commission, as well as the relevant treaty bodies, in the implementation of the Declaration.

109. The Centre also carries out research and studies in this field, assists in the preparation of reports by special rapporteurs and administers the programme of advisory services and technical assistance relating to the implementation of the Declaration and requested by the General Assembly in its resolution 48/138.

110. In particular, a national seminar on human rights was held in Vilnius, Lithuania from 12 to 14 April 1994. The seminar was organized by the Centre for Human Rights as part of its programme of advisory services and technical assistance in cooperation with the Lithuanian Parliament (The Seimas) and the United Nations Development Programme (UNDP) Office in Vilnius. The specific objective of the seminar was to facilitate the exchange of information on

national problems and actions being taken specifically in respect of minorities and, in so doing, to identify obstacles and possible solutions to the problems in the application of relevant international human rights standards.

111. The seminar brought together parliamentarians, government officials, judges and representatives of non-governmental organizations active in the field of human rights at the national level. An average of 20 participants, including women, constantly attended the seminar. Participants included those belonging to ethnic Russian and Polish communities. The remarkable achievement of the seminar was that the United Nations delegation had a special meeting with members of Parliament to consolidate ideas on the follow-up assistance needed in this country and informed participants of all aspects of the programme of Advisory Services and Technical Assistance. Consequently, the Centre positively considered a request for such assistance in order to maintain a momentum for the promotion of human rights generated by this seminar.

112. In July and August 1994, the Centre for Human Rights conducted human rights needs assessment missions in both Armenia and Azerbaijan, designed to form the basis of country programmes of technical assistance in each of those countries. During those missions, the representatives of the Centre held consultations with representatives of all national minority groups, in order that their views and concerns might be effectively responded to in the Centre's programme development activities for the Caucasus. In addition, the Mission held discussions on minority issues with relevant Government offices, including with presidential advisers on minority issues in both countries. As a result of these missions, the Centre will produce comprehensive needs assessment reports for both Armenia and Azerbaijan, each of which will include particular attention to proposals for training and institutional strengthening aimed at ensuring the effective protection and promotion of the rights of national, ethnic, religious, and linguistic minorities, consistent with international human rights standards, in particular with those embodied in the Declaration.

113. A seminar on the promotion and protection of the rights of minorities in Romania is scheduled to take place in Bucharest from 17 to 21 October 1994. It will be organized in cooperation with the Romanian Government and participants will be invited from among the national minorities in the country, national non-governmental organizations and governmental institutions. Issues to be discussed will include ethnic and linguistic rights, as well as religious and cultural rights of minorities.

IV. SPECIALIZED AGENCIES

United Nations Educational, Scientific and Cultural Organization

114. A comprehensive document on the protection and promotion of the cultural rights of persons belonging to minorities, within UNESCO fields of competence, has been prepared and submitted to the Executive Board at its one hundred and forty-fourth session at its one hundred and forty-fourth session (144 EX/15 of 5 April 1994). By its decision 4.4.1, the Executive Board took note of the document and invited the Director-General to continue to implement the activities in this field scheduled for 1994-1995.

115. As pointed out in document 144 EX/15, UNESCO activities for minorities were centred on the following: (a) the struggle against discrimination; (b) the gathering, exchange and circulation of information; (c) raising public awareness; (d) education for human rights and for intercultural understanding; and (e) strengthening endogenous capacities.

116. So far, five consultations on the implementation of the Convention and Recommendation against Discrimination in Education have been organized. Of the 172 States consulted by questionnaire, 71, or 42 per cent, replied (including 46 States parties to the Convention and 25 States reporting on their implementation of the Recommendation). With regard to legislation, the general picture that emerges is that there are appropriate provisions at present in the 71 States to prevent discrimination in education, including discrimination against persons belonging to minorities, the Convention and Recommendation having played a decisive role in this regard.

117. In 1994-1995, the sixth consultation on the implementation of the Convention and Recommendation against Discrimination in Education will, in conformity with 27 C/Resolution 1.9, focus on four population groups: (a) women and girls; (b) persons belonging to minorities; (c) refugees; and (d) indigenous people. It is essential that a maximum number of Member States should answer the consultation so that the Secretariat can benefit from a vast array of information that will allow it in the near future to identify new needs and forms of action in this field.

118. In the context of action taken by UNESCO to develop and promote cultural rights, various studies have been carried out to improve knowledge of the situation of minorities in different regions of the world. Three studies have thus been carried out on ethnic group relations in Africa, Latin America and in Asia and Oceania, as well as a special study on the cultural evolution of countries with diverse ethnical and national groups. In 1992, three supplementary studies were carried out on the legal protection of the cultural rights and identities of minorities in Asia, Africa and Europe. These activities will be continued in 1994-1995 with a series of studies on the content of cultural rights, with emphasis on the protection and promotion of cultural identities and linguistic rights. The compilation of measures taken in different countries and regions concerning cultural rights of persons belonging to minorities, which was started in 1993, will be continued with a view to their publication.

119. Various activities (studies, research, publications, meetings) have been undertaken in the last few years to identify more successfully the educational needs of certain minorities and the specific measures that would enable each group concerned to overcome the obstacles hindering its inclusion in socio-cultural and economic life. Studies done by several countries (China, Philippines and Malaysia) in cooperation with the Principal Regional Office for Asia and the Pacific of UNESCO are an example of this.

120. Under the communication programme, UNESCO has also supported a number of radio and audio-visual productions made by and for cultural minorities and marginalized groups in close cooperation with non-governmental and professional organizations. These include the Institute for Latin America (IPAL), the VIDEORED group in Lima, Peru, the World Association of Community Radio Broadcasters (ARMARC) and Mahaweli Community Radio in Sri Lanka. Under the culture programme, in addition to emergency action taken to safeguard the endangered heritage of minorities, mention should be made of action to revive the oral and written traditions of minority peoples or nomads and action to strengthen pluralism by encouraging the cultural expression of minorities and intercultural dialogue.

121. In 1994-1995, two target groups have been singled out for a series of pilot projects: the gypsies in Europe and the minorities of Viet Nam. The Government of Viet Nam has decided to establish a global policy for the 53 minorities of the country, with particular emphasis on the safeguarding of their intangible cultural heritage. An international meeting of experts was held in Hanoi from 15 to 18 March 1994 to draw up a national plan for the safeguarding and promotion of this heritage. The projects scheduled, to be funded from extrabudgetary sources, include: the establishment of a training centre on the collection of the intangible heritage; the establishment, in different provinces, of five cultural centres for minorities; the establishment of an institute for the study of minorities and an inventory of the crafts of minority groups. The main potential sources of funds are Japan and France. Experience gained in drawing up the national plan for the safeguarding and promotion of the intangible heritage of minorities in Viet Nam will be of great value in responding to similar needs in neighbouring countries.

122. UNESCO, in cooperation with the Marangopoulos Foundation for Human Rights, organized an international workshop on new forms of discrimination: migrants, refugees, minorities in Olympia, Greece, from 13 to 14 May 1994. This workshop was attended by experts from 12 countries, representatives of leading intergovernmental organizations active in prevention of discrimination, including those of the United Nations Centre for Human Rights, the Office of the United Nations High Commissioner for Refugees, the Council of Europe, as well as representatives of NGOs.

123. The meeting paid particular attention to the problems of prevention of discrimination against minorities and protection of their rights in a comprehensive manner. It was stressed, inter alia, that implementation of the rights of minorities is closely linked to the questions of stability and security and that particular efforts are needed to further consolidate international standards concerning the rights of persons belonging to minorities. The document of the meeting, including all the reports presented by

the participants, is to be published in 1995 with the financial contribution of UNESCO.

V. TREATY BODIES

A. Human Rights Committee

124. The General Comment N23(50) adopted by the Committee at its 1314th meeting (fiftieth session) on 6 April 1994, on article 27 of the International Covenant on Civil and Political Rights 3/ may contribute to the interpretation of the provisions of the Declaration. In particular, it helps to clarify several issues relating to pluralism and participation of different groups, the sovereignty and territorial integrity of a State party, and ensuring a number of civil and political rights to persons belonging to minorities.

125. The General Comment states as follows:

> "1. Article 27 of the Covenant provides that, in those States in which ethnic, religious or linguistic minorities exist, persons belonging to these minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practice their own religion, or to use their own language. The Committee observes that this article establishes and recognizes a right which is conferred on individuals belonging to minority groups and which is distinct from, and additional to, all the other rights which, as individuals in common with everyone else, they are already entitled to enjoy under the Covenant.
>
> "...
>
> "3.2 The enjoyment of the rights to which article 27 relates does not prejudice the sovereignty and territorial integrity of a State party. At the same time, one or other aspect of the rights of individuals protected under that article - for example, to enjoy a particular culture - may consist in a way of life which is closely associated with territory and use of its resources. This may particularly be true of members of indigenous communities constituting a minority.
>
> "...
>
> "5.1. The terms used in article 27 indicate that the persons designed to be protected are those who belong to a group and who share in common a culture, a religion and/or a language. Those terms also indicate that the individuals designed to be protected need not be citizens of the State party. In this regard, the obligations deriving from article 2 (1) are also relevant, since a State party is required under that article to ensure that the rights protected under the Covenant are available to all individuals within its territory and subject to its jurisdiction, except rights which are expressly made to apply to citizens, for example, political rights under article 25. A State party may not, therefore, restrict the rights under article 27 to its citizens alone.

"5.2 Article 27 confers rights on persons belonging to minorities which 'exist' in a State party. Given the nature and scope of the rights envisaged under that article, it is not relevant to determine the degree of permanence that the term 'exist' connotes. Those rights simply are that individuals belonging to those minorities should not be denied the right, in community with members of their group, to enjoy their own culture, to practice their religion and speak their language. Just as they need not be nationals or citizens, they need not be permanent residents. Thus, migrant workers or even visitors in a State party constituting such minorities are entitled not to be denied the exercise of those rights. As any other individual in the territory of the State party, they would, also for this purpose, have the general rights, for example, to freedom of association, of assembly, and of expression. The existence of an ethnic, religious or linguistic minority in a given State party does not depend upon a decision by that State party but requires to be established by objective criteria.

"5.3. The right of individuals belonging to a linguistic minority to use their language among themselves, in private or in public, is distinct from other langauge rights protected under the Covenant. In particular, it should be distinguished from the general right to freedom of expression protected under article 19. The latter right is available to all persons, irrespective of whether they belong to minorities or not. Further, the right protected under article 27 should be distinguished from the particular right which article 14 (3) (f) of the Covenant confers on accused persons to interpretation where they cannot understand or speak the language of their choice in courts. Article 14 (3) (f) does not, in any other circumstances, confer on accused persons the right to use or speak the language of their choice in court proceedings.

"6.1. Although article 27 is expressed in negative terms, that article, nevertheless, does recognize the existence of a right and requires that it shall not be denied. Consequently, a State party is under an obligation to ensure that the existence and the exercise of this right are protected against their denial or violation. Positive measures of protection are, therefore, required not only against the acts of the State party itself, whether through its legislative, judicial or administrative authorities, but also against the acts of other persons within the State party.

"6.2. Although the rights protected under article 27 are individual rights, they depend in turn on the ability of the minority group to maintain its culture, language or religion. Accordingly, positive measures by States may also be necessary to protect the identity of a minority and the rights of its members to enjoy and develop their culture and language and to practice their religion, in community with the other members of the group. In this connection, it has to be observed that such positive measures must respect the provisions of articles 2 (1) and 26 of the Covenant both as regards the treatment between different minorities and the treatment between the persons belonging to them and the remaining part of the population. However, as long as those measures are aimed at correcting conditions which prevent or impair the enjoyment of the rights guaranteed under article 27 they may constitute a legitimate differentiation under the

Covenant, provided that they are based on reasonable and objective criteria.

"...

"8. The Committee observes that none of the rights protected under article 27 of the Covenant may be legitimately exercised in a manner or to an extent inconsistent with the other provisions of the Covenant.

"9. The Committee concludes that article 27 relates to rights whose protection imposes specific obligations on States parties. The protection of these rights is directed to ensure the survival and continued development of the cultural, religious and social identity of the minorities concerned, thus enriching the fabric of society as a whole. Accordingly, the Committee observes that these rights must be protected as such and should not be confused with other personal rights conferred on one and all under the Covenant. States parties, therefore, have an obligation to ensure that the exercise of these rights is fully protected and they should indicate in their reports the measures they have adopted to this end."

B. Committee on the Elimination of Racial Discrimination

126. In his working paper mentioned above, Mr. Asbjørn Eide pointed out the following:

> "Prevention of conflicts arising from discrimination or from tensions between different ethnic or religious groups requires a continuous dialogue with States on the implementation of the principles contained in the relevant international instruments. This dialogue is facilitated by the monitoring functions carried out by the treaty bodies. Of particular importance here are the activities of the Committee on the Elimination of Racial Discrimination (CERD). In monitoring the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee may be able to detect, at an early stage, dangerous developments which require attention."

127. CERD is going to consider, at its forty-sixth session, in March 1995, a proposal to amend document CERD/C/70/Rev.3 (Guidelines for the preparation of reports by States parties) by adding three new paragraphs, one of which will read as follows:

> "States parties are requested to note that the Committee on the Elimination of Racial Discrimination, like other human rights treaty bodies, has been invited by the General Assembly (resolution 47/135, operative paragraph 4) to give due regard, within its mandate, to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities."

VI. SPECIAL RAPPORTEURS

128. As mentioned above, there have been cases in which special rapporteurs, appointed by United Nations human rights organs to investigate human rights situations in specific regions and countries, have found themselves face to face with violations of the rights of persons belonging to minorities. In particular, the reports of the Special Rapporteur on Rwanda, Mr. Degni-Ségui, and the Commission's Special Rapporteur on extrajudicial, summary or arbitrary executions, Mr. Bacré Ndiaye, were mentioned.

129. The Special Rapporteur on human rights in the territory of the former Yugoslavia, Mr. Tadeusz Mazowiecki, in his eighth periodic report (E/CN.4/1995/10), described situations in which a few members of one group were attempting to survive whilst living in localities where they are numerically far inferior to members of another religious or ethnic group.

130. He also wrote that:

> "The problem of tiny and surrounded enclaves is well illustrated by the situations of Rotilj and Stari Vitez. Rotilj is a small village near Kiseljak, primarily inhabited by Muslims but in an area with a largely Bosnian Croat population. Stari Vitez, within the town of Vitez, is in a similar situation, though much more badly war-damaged. Residents of both enclaves spoke to the Special Rapporteur of their continued fear and sense of insecurity. It is clear that they remain subject to discrimination and unequal treatment. Either because of fear (Rotilj) or regulation (Stari Vitez), they are not yet free to move outside their enclaves. In both cases there is a lack of willingness on the part of leaders of the majority population to make real progress in creating a climate of trust and reconciliation." (para. 6).

VII. INTERGOVERNMENTAL ORGANIZATIONS

A. Council of Europe

131. The Council of Europe is in the process of developing instruments and policies regarding minority issues. In particular, the heads of State and Government of "the 32" requested the Committee of Ministers to elaborate the following instruments: (a) a draft convention on the protection of national minorities; (b) a draft optional protocol to the European Convention for the Protection of Human Rights and Fundamental Freedoms relating to rights of persons in the field of culture; and (c) measures of confidence aimed at enhancing tolerance and understanding among peoples.

132. Should the Council of Europe complete its elaboration of those instruments and, eventually, adopt them, its role in promotion and protection of the rights of members of minorities would be significantly strengthened. These instruments will be a valuable contribution to the European Convention on human rights and the European Charter for regional or Minorities' Languages. The latter was opened for signature on 2 October 1992. Only one State (Norway) has not so far ratified it.

B. European Commission on Human Rights

133. It was pointed out that the European Convention did not lay down any specific minority rights. Its text refers to "national minorities" only in article 14, the provision on non-discrimination. Association with a national minority is one of several grounds on which discrimination is prohibited, and therefore the case-law on article 14 concerning other grounds of discrimination may also be relevant, at least as regards the general principles. It should be also recalled that article 14 has no independent existence of its own, i.e. it does not lay down the non-discrimination principle in absolute terms, but only in so far as the enjoyment of the rights and freedoms enshrined in the Convention is concerned. Accordingly this provision can only be applied in conjunction with other Convention articles as if it formed an integral part of these articles (cf. Belgian Linguistic judgement of 27 June 1968, Series A, no. 6).

134. The scope of applicability of article 14 is therefore determined by the scope of the other Convention articles. It should be noted that many matters which might be of particular importance for national minorities have been found to be outside the ambit of the Convention. They include, inter alia, the right to nationality, the right to personal documents, the right of access to the public service, the right to work, freedom of profession and establishment and the right to (non-contributory) social benefits. Accordingly, discrimination with regard to these matters cannot be made a subject of complaint to the Convention organs (cf. Digest of Strasbourg case law, vol. 4, p. 47 ff. for a list of cases).

135. It should further be noted that in the case of States which have not ratified the Protocols to the Convention, discrimination cannot be alleged concerning the rights enshrined in these Protocols. This might affect such important rights as: the right to freedom of movement (Protocol 4, art. 2); the prohibition of the expulsion of nationals (Protocol 4, art. 3); the prohibition of the collective expulsion of aliens (Protocol 4, art. 4).

136. Special considerations apply to the use of languages. A right to the use of a particular language in contacts with the authorities is not generally guaranteed, but "language" is also one of the grounds on which discrimination is prohibited under article 14. This may be of importance in particular where the exercise of procedural rights recognized by the Convention is concerned, i.e. in the areas of articles 5, 6 and 13. However, it appears that here article 14 cannot be given full effect since articles 5 and 6 contain special provisions on the use of language.

137. A further important consideration for effective exercise of minority rights arises in the area of procedure. Article 25 recognizes the right of petition of "persons", "non-governmental organization" and "groups of individuals". Individual persons belonging to a national minority can of course complain that they are being discriminated against on the ground of their belonging to this minority. The right of petition in such a case may also be exercised collectively by a "group of individuals". However, in the case-law of the Commission "groups of individuals" are treated as an aggregate of individuals and required to fulfil the same procedural conditions as individual applicants.

138. A possibility to complain of the treatment of a minority as such is however provided in the context of an inter-State application under article 24 of the Convention. Unlike individuals, States may complain of legislation and administrative practices in another State as such (cf. Ireland v. U.K. judgement of 18 January 1978, Series A, no. 25).

139. Case-law dealing specifically with the special situation of minority members is relatively sparse. The following cases may be mentioned:

(a) In at least two cases, the Commission stated that the right to self-determination (of national minorities) is not guaranteed by the Convention (cf. No. 6742/74, D.R. 3, p. 98 concerning Germans formerly living in Czechoslovakia, and No. 7230/75, D.R. 7, p. 109 concerning the autochtonous population in Suriname);

(b) Discrimination of a national minority with respect to several Convention rights was also established in the inter-State case of Cyprus v. Turkey (Commission Report 10.7.76, para. 503). The relevant criterion here was that the measures concerned were specifically directed against the Greek Cypriot population in the North of Cyprus;

(c) In the case of the Kalderas gypsies (D.R. 11, p. 221) the Commission considered that a refusal to deliver identification papers to members of a nomadic group may raise issues under articles 3 and 14 of the Convention and, concerning birth certificates, also article 8 of the Convention. The case was however rejected for non-exhaustion of domestic remedies. The situation of nomads was also considered in application No. 13572/88 (Östergren and others v. Sweden, Dec. 1.3.91). However, the Commission held that there was no interference with specific Convention rights of the Sami people concerned. In this context the Commission stated, inter alia, that the Sami community was not an association within the meaning of article 11 of the Convention;

(d) Finally, reference should be made to the treatment of minorities in third States not parties to the Convention. In its case-law concerning the examination of expulsions under article 3 of the Convention the Commission has repeatedly dealt with cases in which inhuman treatment of the persons concerned was to be feared because of their belonging to particular minority groups (cf. in particular cases on the expulsion of Tamils to Sri Lanka, 13163-65/87, Vilverajah and others v. U.K., and 17550/90, 17825/91, V and P v. France, both pending before the Court; cf. also several cases concerning the expulsion of Kurds to Turkey and of Croats to Yugoslavia, i.e. No. 10032/82, Dec. 5.10.83).

VIII. NON-GOVERNMENTAL ORGANIZATIONS

140. The International Federation of Human Rights (IFHR) sent its report N187, dated April 1994, on the situation of human rights in Mauritania. It stated that the rights of Negro-African minorities were violated and expressed its concern about the massive displacement of persons belonging to those minorities to other parts of the State or even their expulsion to Senegal and Mali. IFHR stated that the Arabo-Berbères (Maures) had destroyed some villages of Negro-Africans and confiscated their property. This, in the opinion of IFHR,

constitutes acts of discrimination and violation of the rights embodied in article 2 of the Declaration. In addition, the organization pointed out that the rights of Negro-Africans to use their language and to develop their culture were not recognized; this also constituted a violation of article 4 of the Declaration.

141. Human Rights Watch/Africa expressed its concern about the continuing attacks on the Ogoni ethnic group by the Nigerian authorities. It stated that over 1,000 persons were believed to have been killed by government forces since last year. A new assault on the area began on 3 April 1994 while many Ogonis were celebrating Easter. Seven Ogoni villages were destroyed by Nigerian troops and about 20 Ogonis were killed after a minor dispute with a neighbouring community led to the intervention of the Nigerian military. Thousands were rendered homeless.

IX. CONCLUSIONS AND RECOMMENDATIONS

142. Effective promotion of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, in conjunction with the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination and all other relevant international instruments, would provide the best ways and means of ensuring the right of persons belonging to minorities.

143. The replies from States showed that non-discrimination and special measures leading to the equal enjoyment of all human rights remained the basis of the protection of rights of persons belonging to minorities. States are also convinced of the need to ensure equality and non-discrimination between all groups in society and to find peaceful and constructive solutions to minority situations in accordance with international law.

144. States pointed out that all groups residing on their territories should cooperate peacefully in the search for constructive accommodation of their respective concerns within the general framework of international human rights law and should abstain from any use of violence.

145. It is essential to emphasize that many problems and even severe conflicts like those in Rwanda arose from the Government and other elements of society: sections of the security and armed forces and the mass media. Sometimes these conflicts originate in ethnic groups themselves, as demonstrated by Serbs in Bosnia and Herzegovina.

146. Under aggravated circumstances, as in Rwanda and the former Yugoslavia, the use of thematic and country rapporteurs is increasingly being resorted to. It is for the General Assembly and the Commission on Human Rights to appoint such rapporteurs, to give close attention to their reports in so far as questions within their mandates are concerned and to provide them with suggestions on how they can best address those aspects of their particular mandate.

147. States particularly noted relevant international norms and standards embodied in the Declaration. Priority attention should be given to the

implementation of this normative system in national law, both constitutional and statutory. The proper combination of provisions concerning equality and non-discrimination, and provisions allowing for conditions to maintain group identity, should be encouraged.

148. Issues concerning persons belonging to minorities, as well as compliance with international obligations and commitments concerning the rights of such persons, are matters of legitimate international concern and consequently do not constitute an exclusively internal affair of the particular State.

149. Special efforts must be made to resolve specific problems in a constructive manner and through dialogue by means of negotiations and consultations with a view to improving the situation of persons belonging to minorities. The promotion of dialogue between States, and between States and persons belonging to minorities with a view to the implementation of the Declaration, should be encouraged. Unilateral, bilateral and multilateral efforts by Governments to explore avenues for enhancing the effectiveness of the implementation of the Declaration should also be encouraged.

150. The significant contributions which have been made by the relevant treaty monitoring bodies, in particular the Committee on the Elimination of Racial Discrimination and the Human Rights Committee, should be emphasized. In particular, the General Comment adopted by the Human Rights Committee regarding article 27 of the International Covenant on Civil and Political Rights helps to clarify many issues relating to rights of persons belonging to minorities and thus contributes to the interpretation and the promotion of standards contained in the Declaration.

151. Evidence that minority rights in general and their implementation in particular are a vital issue is manifest in the consideration of those issues and related proposals by the Commission on Human Rights, the Subcommission and on Prevention of Discrimination and Protection of Minorities and the Special Rapporteurs. Those proposals, in particular made by the Subcommission in its resolution 1994/4, may be considered as a basis for further concrete measures to be taken by the relevant United Nations organizations, organs and bodies aimed at the promotion of the Declaration.

152. The United Nations human rights organs and UNESCO stressed the importance of the provisions of the Declaration for the United Nations and its specialized agencies in the realization of minority rights. These organizations, as well as regional institutions such as the Conference on Security and Cooperation in Europe and the Council of Europe, should do more to implement the Declaration, as well as minority rights provisions in other existing human rights instruments.

153. Issues relating to intolerance and xenophobia directed against ethnic minorities were matters of concern to Mr. José Ayala Lasso, the United Nations High Commissioner for Human Rights. These were clearly expressed by him in his address to the Commission on Human Rights at its fiftieth session. He stated "I shall do everything possible to heighten awareness of the need to combat these trends and practices which are causing suffering at the present time and will

poison the future with hatred and desire for revenge". The High Commissioner can undoubtedly play a major role in solving those problems.

154. One of the principal requirements for effective protection of the rights of persons belonging to minorities is the existence of adequate national law and institutions. Therefore, common efforts should continue to be undertaken so that the United Nations programme of advisory services and technical assistance in this area would provide the services of experts, inter alia, to assist in developing legislation that is in compliance with relevant recognized international instruments. Similar efforts should continue to encourage the establishment of national institutions and mechanisms and to strengthen existing ones.

155. Coordination of such activities should be further encouraged and properly financed, as recommended to the Secretary-General by the World Conference on Human Rights. It had also recommended that high-level officials of relevant United Nations bodies and specialized agencies, besides coordinating their activities at their annual meetings, also assess the impact of their strategies and policies on the enjoyment of all human rights.

156. Given the recommendation of the World Conference, it would seem desirable and appropriate to include in the agenda of the annual meetings of relevant United Nations bodies and specialized agencies an item concerning coordination between their programmes aimed at promotion and protection of the right of persons belonging to minorities.

157. It should be reiterated that questions relating to minorities can be satisfactorily resolved only in a democratic political framework based on the rule of law, with a functioning independent judiciary. This framework guarantees full respect for human rights and fundamental freedoms; equal rights and status for all citizens, including persons belonging to minorities; the free expression of all their legitimate interests and aspirations; political pluralism; social tolerance; and the implementation of legal rules that place effective restraints on the abuse of governmental power.

Notes

1/ Leagues of Nations, Treaty Series, vol. XXVIII, p. 12.

2/ Resolution 2106 A (XX), annex.

3/ Resolution 2200 A (XXI), annex.